

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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IN RE:	:	
SHAWN C. MCGUIRE	:	Bankruptcy No.: 17-14056-amc
	:	
Debtor.	:	Chapter 13

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Shawn C. McGuire	:	
26 W. Roland Road	:	
Brookhaven, PA 19015	:	
	:	
Plaintiff	:	
	:	
v.	:	
	:	
Nationstar Mortgage, LLC	:	
350 Highland Drive	:	
Lewisville, TX 75067	:	
	:	
Defendant	:	AP No.

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**COMPLAINT TO DETERMINE VALIDITY OF MORTGAGE LIEN HELD BY  
NATIONSTAR MORTGAGE, LLC**

**I. Introduction**

1. The instant complaint is filed by the Debtor-Plaintiff (hereinafter referred to as "Plaintiff") Shawn C. McGuire pursuant to Bankruptcy Rule 7001 to determine the extent and validity of any lien asserted by Defendant, Nationstar Mortgage, LLC (hereinafter referred to as "Defendant") and pursuant to 11 U.S.C. § 506 to determine the extent to which Defendant pursuant to a second mortgage on the property more fully described below may file a secured claim and the extent to which it is an unsecured claim; to declare that any such claim that may be filed by the Defendant pursuant to the aforesaid mortgage is unsecured, per 11 U.S.C. § 506, and praying that the Honorable Court enter an order, directing the Defendant to void and/or vacate the second mortgage held by the Defendant upon the property of the Plaintiff, and to have such voidance or vacation recorded with the Recorder of Deeds, or as a satisfaction of mortgage.

## **II. Jurisdiction**

2. Debtor-Plaintiff, Shawn C. McGuire, by and through their counsel, Brad J. Sadek, Esquire, of Sadek Law Offices, filed the present chapter 13 case on June 9, 2017 (the "Chapter 13 Case"). This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. §157.

## **III. Parties**

3. The Plaintiff is Shawn C. McGuire, a natural person, who resides at 26 West Roland Road, Brookhaven, PA 19015.

4. The Defendant is Nationstar Mortgage, having a primary office to conduct business at 350 Highland Drive, Lewisville, Texas 75067.

5. The standing chapter 13 trustee in the Chapter 13 Case is Kenneth E. West, Esquire.

## **IV. Allegations of Fact**

6. The Plaintiff purchased real property located at 26 West Roland Road, Brookhaven, PA 19015 (the "Property") on or about March 15, 2006, by way of first mortgage held by HSBC Bank, US National Association and serviced by Nationstar Mortgage, LLC (the "First Mortgage").

7. The subject second mortgage on the property was incurred on or about March 15, 2006, in the original amount of \$31,980.00 (the "Second Mortgage").

8. As of October 31, 2023, the First Mortgage had a total balance due and owing in the amount of \$222,036.52 in accordance with Amended Proof of Claim numbered 8-3 filed in the Chapter 13 Case (the "First Mortgage"). See Proof of Claim 8-3 incorporated herein and marked as "**Exhibit "A."**"

9. The first mortgage at the time of filing, per Claim number 8-1 had a loan balance in the sum of \$218,850.71.

10. As of November 18, 2013, the Second Mortgage, through Defendant, had a current balance due and owing in the amount of \$53,266.89 in accordance with Proof of Claim numbered 8-1 filed in the Plaintiff-Debtor's prior bankruptcy case, Case No. 14-00068-BIF (the "Prior Case"). See Proof of Claim 8-1 from the Prior Case incorporated herein and marked as **"Exhibit B."**

11. The last recordation of assignment of the second mortgage subject to the instant proceeding was recorded on September 10, 2013 with the Delaware County Recorder of Deeds to Nationstar Mortgage, LLC. A true and correct copy of the September 10, 2013 Assignment is attached hereto as **Exhibit "C"**.

12. In accordance with Schedule "A" filed in the instant Chapter 13 Case, the value of the Property is \$163,492.00.

13. Based on the foregoing, Plaintiff avers that the property was worth less than the payoff amount of the First Mortgage at the time of filing.

14. Therefore, the Second Mortgage, held by the Defendant, is wholly unsecured.

15. Pursuant to 11 U.S.C. § 506, Plaintiff asserts that the debt or obligation owed by the Plaintiff to the Defendant by virtue of the Second Mortgage upon Debtor's real property should be reclassified by this Honorable Court as completely unsecured and any lien held by the Defendant against the property in question should be declared null and void.



**WHEREFORE**, Plaintiff, by and through their counsel Brad J. Sadek, Esquire of Sadek Law Offices, respectfully requests that this Honorable Court enter an Order in favor of the Plaintiff and against Defendant, reclassifying any claim filed by the Defendant based upon the aforementioned Second Mortgage upon the premises, from secured to unsecured, striking or otherwise modifying any such Proof of Claim that is filed by the Defendant to show that the debt in question is wholly unsecured; and

**ORDERING** that the second mortgage on the premises of 26 West Roland Road, Brookhaven, PA 19015 shall be deemed to be vacated, and the Plaintiff may have such voidance recorded with the Recorder of Deeds of Delaware County, Pennsylvania, or in the alternative, mark said mortgage as "satisfied" on the records of the Recorder of Deeds, and to deliver same to counsel for Plaintiff, at no cost or charge for such cancellation and/or delivery; AND

Granting such relief as the Court may determine to be proper and just.

Respectfully submitted,

SADEK LAW OFFICES

Dated: June 12, 2024

By: /s/ Brad J. Sadek

Brad J. Sadek, Esquire

Attorney I.D. No. 90488

1500 JFK Boulevard, Suite 220

Philadelphia, Pennsylvania 19102

T: (215) 545-0008

F: (215) 545-0611

brad@sadeklaw.com

*Counsel to the Debtor-Plaintiff*